

## **LBNL – PROCUREMENT STANDARD PRACTICES**

**Section: 33 Protests, Disputes, and Appeals**

**Subject: 33.1 Protests**

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**PURPOSE:** This standard practice (SP) defines the procedure for resolving a protest from an interested party that arises from the award of a Laboratory subcontract.

**POLICY:** The Laboratory will attempt to resolve potential protests through discussions with interested parties. Formal protests will be handled in accordance with the procedures outlined below.

**SCOPE:** This SP applies to all protests arising from the award of a Laboratory subcontract.

### **DEFINITIONS:**

**Interested Party** An interested party is a bidder or offeror who has a direct economic interest in a subcontract and could potentially be considered for award of a subcontract if its protest is sustained.

**Procurement Record** Procurement record means all the documents and/or releasable documentation relevant to the protest.

**Protest** A protest is a written objection by an interested party to the award of a Laboratory subcontract.

### **PROCEDURES:**

**Submittal of Protests** Protests should be submitted by interested parties directly to the Procurement Manager.

The procurement specialist should immediately notify his/her procurement supervisor, and the Procurement Manager of any potential or formal protests of which the procurement specialist becomes aware.

**Resolution of Potential Protests** The procurement specialist should attempt to informally resolve potential protests through discussions with the interested party, if possible.

Efforts to informally resolve a potential protest should be documented in the subcontract file.

Once a formal protest has been filed, no further informal efforts to resolve the protest should be taken without coordinating such efforts with the Procurement Manager.

**Processing A Formal Protest** **Timely Protests** — Protests must be filed by an interested party no later than 10 calendar days after the basis of the protest is known or should have been known by the interested party. However, if the interested party has requested a debriefing, the initial protest cannot be filed before the debriefing date offered

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to the interested party. The protest must be filed no later than 10 calendar days after the debriefing is held.

**Procurement Record** — Within 10 working days of receipt of a protest, a protest record must be prepared by the procurement specialist and submitted for review to the Procurement Manager.

The procurement record must:

- Respond in depth to the protester's allegations;
- Refute any factual misstatements made by the protester;
- Include a recommendation for disposition of the protest; and
- Contain all of the essential information regarding the protested subcontract.

**Procurement Manager's Decision** — The facts surrounding the protest will be reviewed by the Procurement Manager or designee; coordinated with Laboratory Counsel as appropriate; validity of the protest will be determined; and a decision will be made as to whether subsequent action, such as reopening the solicitation or terminating the subcontract, is required. Within 10 working days of receipt of the procurement record, the Procurement Manager will issue a written decision to the protester with a copy to the procurement specialist for the subcontract file.

**Effect of the Protest** — If the protest is timely, the Laboratory should not proceed further with the award or performance of the subcontract until the protest is withdrawn by the interested party or the Procurement Manager renders a decision that proceeding with award or performance of the subcontract is necessary to protect substantial interests of the Laboratory. The decision to proceed by the Procurement Manager must be documented in the subcontract file. Written notice of the decision to proceed must be provided to the protester and other interested parties.

If award is withheld pending resolution of the protest, the procurement specialist will, if appropriate, request the offerors, to extend the time for acceptance of their offers to avoid the need for resolicitation.

### **Corrective Action**

If the Procurement Manager determines that the subcontract award in question is flawed, it is in the Laboratory's interest to take appropriate corrective action. Any necessary corrective action must be taken promptly.

### **RESPONSIBILITIES:**

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**Procurement  
Specialist**

The procurement specialist must:

- Immediately notify the procurement supervisor and the Procurement Manager of any potential or formal protest;
- Attempt to resolve potential protests, if possible;
- Prepare a procurement record and submit it to the appropriate official;
- Coordinate all actions and correspondence with the Procurement Manager.

**Procurement  
Manager**

The Procurement Manager or designee must:

- Ensure each step of the protest process is completed within the established time frames;
- Decide whether a protest lodged with the Laboratory is valid and, if appropriate, direct the procurement specialist to take corrective action; and
- Coordinate with Laboratory Counsel when appropriate.